



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 CRIMINAL APPLICATION NO. 2162 OF 2024

Gopal Govind Lakade And Others

VERSUS

The State Of Maharashtra

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Mr. Rahul P. Cheble, Advocate for Applicants

Mr. N.D. Batule, APP for Respondent – State

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[CORAM : Y. G. KHOBRADE, J.]

DATE : 02nd DECEMBER, 2024

ORDER :

1. Heard the learned counsel appearing for the applicant and the learned APP for respondent/ State.

2. By the present application, the applicants/accused have challenged the impugned order dated 13.02.2024 passed by the learned Sessions Judge, Latur, thereby rejected the application for transfer of the Sessions Case No. 20/2020 from the Court of 4th Additional Sessions Judge, Latur to any other Court.

3. Learned counsel appearing for the applicants canvassed that during the course of the trial, the prosecution examined the witness Mr. Mahesh Ghogare and proved the medical report. According to the present applicants as per

evidence of prosecution witness Mr. Mahesh Ghogare and Medical Report offence u/s 307 of I.P.C., does not attract and it is the part of the argument, however, the learned Sessions Judge flatly refused to record the statement of the witness. Therefore, the accused thought that he would not receive substantial justice and no fair trial would be conducted against him at the hands of Additional Sessions Judge, Court No.4. Hence, prayed for transfer of the trial.

4. Section 408 of the Code of Criminal Procedure provides as under:

"408. Power of Sessions Judge to transfer cases and appeals.—(1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein, the words "two hundred and fifty rupees" were substituted."

5. On 13.02.2024, learned Sessions Judge, Latur passed the impugned order and held that, on 30.08.2023, Sessions Case No.20/2020 was posted for framing of charge. After hearing the arguments of both the sides, the matter was posted on 18.09.2023 for passing the order. However, on 18.09.2023, while dictating the order, the defence's counsel/petitioners' counsel made a request to reproduce entire Medical Report in order but at that time, the learned Additional Sessions Judge told the defence counsel that, if the accused persons aggrieved by the order, they can challenge, however, they should not disturb while dictating the order. Therefore, the accused persons presumed that no fair trial would be conducted, hence, prayed for transfer of Sessions trial to any other Court.

6. Needless to say that as per the provisions of section 408 of the Code of Criminal Procedure, the transfer of any Sessions trial from one Court to another can be ordered, if it is found expedient for the ends of justice. However, while framing of the charge, the material placed on record required to be considered, and it is not imperative right of the counsel to insist upon any Court to reproduce any particular statement of any witness recorded during course of the investigation.

Needless to say that merely because the the learned Additional Session Judge did not reproduce entire Medical Report in it's order, it does not show that the trial Court is not likely to conduct the fair trial. There is absolutely no infirmity or perversity in the order passed by the learned Sessions Judge. No case is made out by the applicants to warrant interference in the impugned order. Hence, the Criminal Application is rejected.

[Y. G. KHOBRADE]
JUDGE